IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 16472 of 2007(J)

OS.415/2005 of PRINCIPAL MUNSIFF,ALAPPUZHA
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PETITIONER:

ANNAMMA THOMAS,
NADUVILEDATHU KANNITTAYIL, KANNADY WEST,
PULINCUNNU, ALAPPUZHA DISTRICT.

BY ADV. SRI.JOMY GEORGE

RESPONDENTS:
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1. KARTHIYANI, PUTHENPARAMP HOUSE,
KANNADY WEST, PULINCUNNU.

2. MANIYAN, PUTHENPARAMP HOUSE,
KANNADY WEST, PULINCUNNU.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 **TRUE COPY OF THE PLAINT IN OS 415/05 DTD.19.6.05.**

EXT.P2 **TRUE COPY OF THE WRITTEN STATEMENT DTD.15.2.06.**

EXT.P3 **TRUE COPY OF THE ORDER OF THE MUNSIFF COURT IN I.A.962/07 IN OS 415/05 DTD.15.3.07.**

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NO. 16472 OF 2007

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Dated this the 4th day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside Ext.P3 order passed by the learned Munsiff, Alappuzha in I.A.962/07 in O.S.415/05. A perusal of the order would reveal that the suit is one for a permanent injunction wherein the defendants have disputed regarding the identity of the property. The Court below was not inclined to allow that application mainly on the ground that the petition was filed on the eve of the trial of the case. The Court also refers to a dispute regarding the identity of the property.

2. Respondents served. When there is an identification dispute, for resolving the case there must be a proper plan and report. Therefore, I am inclined to set aside the order of the learned Munsiff and allow this writ petition. The Court below is directed to appoint a Commissioner and if necessary with the assistance of a surveyor for properly identifying the property with respect to the title deeds of the property. Both the parties, viz. plaintiff as well as defendant are permitted to file their work

memo before the Commissioner for the same. The plaintiff is directed to bear the expenses incurred for the Commission as well as that of the surveyor for the time being and ultimately if decided in his favour then as decided by the Court.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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